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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,003	11/21/2001	Richard Wayne Cheston	RPS9 2001 0133	2443

25299 7590 06/02/2004

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EXAMINER

ELAMIN, ABDELMONIEM I

ART UNIT	PAPER NUMBER
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2116

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/990,003	Applicant(s) CHESTON ET AL.	
	Examiner A Elamin	Art Unit 2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

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Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/21/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CAR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CAR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CAR 3.73(b).

2. Claims 1-30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of copending Application No. 09/990,084. Although the conflicting claims are not identical, they are not patentably distinct from each other because they recite means or steps that are substantially the same and that would have been obvious to one of ordinary skill in the art.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claims 1, 6, 11, 16, 21 and 26 essentially repeat most of the features listed in claims 1, 7, 13 and 20 of the copending Application No. 10/080,899, claims 1, 4, 12 and 15 of copending Application No. 09/990,084. With the exception of the trivial difference of one saying an operating system and the other saying a BIOS system.

4. Claims 2-5 and 17-20 of the instant application are identical to claims 3-6 of the copending application No. 09/990,084.

5. Claims 7-10 and 22-25 of the instant application are identical to claims 9-12 of the copending application No. 09/990,084.

6. Claims 12-15 and 26-30 of the instant application are identical to claims 15-18 of the copending application No. 09/990,084

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-2, 6-7, 11-12, 16-17, 21-22 and 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim, US. Pat. No. 6,014,616.

9. Claims 1, 6, 11, 16, 21 and 26, Kim teaches a method for configuring an operating system in a computer system [*title, abstract*], the method comprising the steps of:

- a. providing a plurality of operating system images in the computer system, each of the plurality of operating system images being based upon a particular language [*abstract, col. 2, line 56 thru col. 3, line 13, col. 5, lines 26-40*];
- b. selecting one of the plurality of operating system images based on the language supported by the computer system [*abstract, col. 2, line 56 thru col. 3, line 13, col. 5, lines 26-40*];
- c. utilizing the selected operating system image by the computer system [*Fig. 3, col. 4, line 19 thru col. 5, line 13*].

10. Claims 2, 7, 12, 17, 22 and 27, Kim teaches querying a keyboard of the computer system to determine the language being supported by the computer system [*abstract, col. 2, line 56 thru col. 3, line 13, Fig. 3, col. 4, lines 19-67*].

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3-5, 8-10, 13-15, 18-20, 23-25 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim, US. Pat. No. 6,014,616.

13. Claims 3, 8, 13, 18, 23 and 28, Kim fails to teach the keyboard comprises a universal serial bus (USB) keyboard.

Official Notice is taken that both the concept and the advantages of USB keyboards are old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kim to include a USB keyboard, because the USB has the advantages of a lower cost, supporting a plurality of transmission protocols, more connections and occupying less system resources.

14. Claims 4, 9, 14, 19, 24 and 29, Kim teaches the keyboard comprises at least one report descriptor wherein the at least one report descriptor comprises a language supported by the computer system [*abstract, col. 2, line 56 thru col. 3, line 13, Fig. 3, col. 4, lines 19-67*].

15. Claims 5, 10, 15, 20, 25 and 30, Kim teaches the querying the at least one report descriptor to determine the language supported by the keyboard [*abstract, col. 2, line 56 thru col. 3, line 13, Fig. 3, col. 4, lines 19-67*].

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A Elamin whose telephone number is (703)305-3804. The examiner can normally be reached on MON-FRI 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (703) 308-1159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


A. ELAMIN
PRIMARY EXAMINER

A Elamin
Primary Examiner
Art Unit 2116

May 30, 2004

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